HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 6545of 2007

PETITIONER Babulal Sahu S/o Shri Vikram Prasad Sahu, aged about 34 years, R/o Vill. Tarseli, Post Kothi, Teh. Kotma, Distt. Anuppur (M.P.)

Versus

RESPONDENTS

1. The C.M.D. South Eastern Coal Fields Ltd. Seepat Road Bilaspur (C.G.)
2. The Director Personnel, South Eastern Coal Fields Ltd. Seepat Road Bilaspur (C.G.)
3. The Deputy Area Manager (Personnel), Baherabandh sub area Hasdeo area, Post Baherabandh, Distt. Anuppur (M.P.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUION OF INDIA

Appearance:

Shri Prafull Bharat, counsel for the petitioner.

ORAL ORDER
(14.11.2007)

SUNIL KUMAR SINHA, J.

(1) Heard on admission.

(2) Learned counsel for the petitioner submits that father-in-law of the petitioner has died on 25.10.2006 during the course of employment in concerned area of SECL. He submits that though the wife of the deceased is alive but she does not want to take benefits of dependant employment, and she desires that her son-in-law, petitioner should get job under the scheme of dependant employment. Therefore, the petitioner made an effort for getting employment as one of the dependant of the deceased but the same has been refused by the concerned authority by giving a letter dated 23.1.2007 (Annexure-P/6). The reason assign for not giving employment to the petitioner is that the wife of the deceased is alive and when direct dependant is alive, the employment

cannot be given to any other person. He submits that the view taken by the concerned authority is not in accordance with law.

(3) I have heard the learned counsel for the petitioner at length and have perused the documents annexed with the writ petition.

(4) Annexure-P/2 is the document which relates to scheme regarding employment to dependant and the same has been relied on by the petitioner.

(5) Para 9.3.0 of the document Annexure-P/2, on which reliance is placed, relates to provision of employment to dependants. Para 9.3.1 says that employment would be provided to one dependant of workers who are disabled permanently and also those who die while in service. Vide Para 9.3.2, it has been provided that in so far as female dependants are concerned, their employment/payment of monetary compensation would be governed by Para 9.5.0. Vide Para 9.3.3, it has been provided that the dependant for this purpose means the wife/husband as the case may be, unmarried daughter, son and legally adopted son. It is further provided that if no such direct dependant is available for employment, brother, widowed daughter/widowed daughter-in-law or son-in-law residing with the deceased and almost wholly dependant on the earnings of the deceased may be considered to be the dependant of the deceased.

(6) Therefore, after going through the scheme meant for the employment to the dependant, by necessary implication, it is apparent that if a dependant mentioned in Para 9.3.3 is available, no other person can claim preferential right to get an employment in place of deceased or he cannot be delegated such a right by any dependant, particularly for want of such provisions in this regard.

(7) In view of the above, when the wife of the deceased is alive, the petitioner, who is son-in-law, does not get any legally enforceable right to claim employment as the dependant of the deceased under the scheme referred and relied by learned counsel for the petitioner.

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(8) I do not find any illegality in the view taken by the concerned authority of the SECL by not considering the case of the petitioner on account of availability of direct dependant of the deceased as has been mentioned vide communication dated 23.1.2007 (Annexure-P/6).

(9) The petition has no merit and the same is dismissed at the motion stage itself. It is made clear that this order shall not come in the way of consideration of the case of wife or any other dependant, as the case may be, for their employment/payment of monetary compensation which would be governed by Para 9.5.0 of the Scheme or any other law for the time being in force.

Sd/-
Sunil Kumar Sinha
Judge

vatti